

<p>DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO</p> <p>1437 Bannock Street Denver, CO 80202</p> <hr/> <p>FRED J. JOSEPH, Securities Commissioner for the State of Colorado,</p> <p>Plaintiff,</p> <p>v.</p> <p>ENRIQUE MONTIEL and LIFE ENHANCEMENT SYSTEMS, LLC</p> <p>Defendants.</p>	<p>▲ COURT USE ONLY ▲</p>
<p>JOHN W. SUTHERS, Attorney General RUSSELL B. KLEIN, First Assistant Attorney General*</p> <p>1525 Sherman Street, 7<sup>th</sup> Floor Denver, CO 80203 Telephone: 303-866-5287 FAX: 303-866-5395 E-Mail: Russell.klein@state.co.us Registration Number: 31965 *Counsel of Record</p>	<p>Case No.</p>
<p align="center"><b>COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF</b></p>	

Plaintiff, Fred J. Joseph, securities Commissioner for the State of Colorado, by and through his counsel, the Colorado Attorney General, and for his Complaint against the defendants, alleges as follows:

### JURISDICTION

1. Plaintiff Fred J. Joseph is the Securities Commissioner for the State of Colorado (the “Commissioner”) and is authorized, pursuant to § 11-51-703, C.R.S., to administer all provisions of the Colorado Securities Act (the “Act”). Pursuant to § 11-51-602, C.R.S., the Commissioner is authorized to bring this action against the Defendants and

to seek temporary, preliminary, and permanent injunctive relief and other equitable relief against the Defendants upon sufficient evidence that the Defendants have engaged in or are about to engage in any act or practice constituting a violation of any provision of the Act.

2. Venue is proper pursuant to § 11-51-602(1), C.R.S. in the district court for the city and county of Denver, Colorado.

### **DEFENDANTS**

3. Defendant Enrique Montiel (“Montiel”) is an adult male individual whose last known address is 1017 North Prospect Street, Colorado Springs, Colorado 80903.

4. Defendant Life Enhancement Systems, LLC (“Life Enhancement”) is a Colorado Limited Liability Company with its principal business address located at 1017 N. Prospect Street, Colorado Springs, Colorado 80903. Defendant Montiel is a control person of Life Enhancement.

### **GENERAL ALLEGATIONS**

5. This case involves the fraudulent offer and sale of unregistered securities in the form of promissory notes in Life Enhancement, an entity formed by Montiel. Montiel told investors that he was raising funds to purchase the Hearthstone Inn (“Hearthstone”) in Colorado Springs, Colorado for use as a holistic center featuring services such as life coaching, yoga, massage therapy, and other alternative health services.

6. In order to facilitate the investment scheme, investors were lured to invest tens of thousands of dollars into the Defendants’ scheme based upon the promises of a 12% rate of return. As a result of the Defendants’ fraudulent conduct, investors incurred substantial losses.

7. As a part of the fund raising efforts, the Defendants entered into a promissory note with investors. The promissory note identified the amount being invested in Life Enhancement, the amount being promised in interest, and the due date on the note. Utilizing this scheme, the Defendants raised approximately \$103,500.00 in investor funds towards the Hearthstone investment. The Defendants have returned approximately \$25,956.83, resulting in losses to investors of at least \$77,543.17.

8. The Commissioner is aware of numerous individuals who have invested with the Defendants. The following sub-paragraphs detail the known scheme to defraud investors and the acts, practices and course of business engaged in by the Defendants to defraud investors, and is typical of the conduct engaged in by the Defendants with other investors:

a. On or about January 23, 2008, investor EM invested with defendants Montiel and Life Enhancement. Pursuant to the terms of their agreement, EM invested \$10,000.00 with an interest rate of 12% per annum and a due date of September 23, 2008. The purpose of the investment was to purchase the Hearthstone property to create a holistic healing community. In connection with the offer and sale of securities to EM, the Defendants failed to disclose to EM material facts, including but not limited to the risks associated with the investment, that new investor funds would be used to pay previous investors, and that investor funds would be used to loan money to an unrelated company.

b. On or about January 25, 2008, investor MP invested with defendants Montiel and Life Enhancement. Pursuant to the terms of their agreement, MP made an initial investment of \$10,000.00 with an interest rate of 12% per annum and a due date of September 28, 2008. The purpose of this investment was to purchase the Hearthstone property to create a holistic healing community. In connection with the offer and sale of securities to MP, the Defendants failed to disclose to MP material facts, including but not limited to the risks associated with the investment, that new investor funds would be used to pay previous investors, and that investor funds would be used to loan money to an unrelated company.

9. The investments are securities as contemplated by § 11-51-201(17), C.R.S. in that they are at least investment contracts.

**FIRST CLAIM FOR RELIEF**  
(Offer and Sale of Unregistered Securities)

10. Paragraphs 1 through 9 are incorporated herein by reference.

11. By engaging in the conduct described above, the Defendants have made “offers” or “sales” of securities in the State of Colorado pursuant to § 11-51-201(13), C.R.S.

12. By engaging in the conduct described herein, the Defendants offered and sold securities in and from Colorado in violation of § 11-51-301, C.R.S.

13. The Commissioner is entitled to an award of damages, interest, costs, attorneys fees, restitution, disgorgement and other equitable relief on behalf of persons injured by the conduct of the Defendants pursuant to §§ 11-51-602(2) and 604(1), C.R.S. (based on

violations of § 11-51-301, C.R.S.). The Commissioner is also entitled to a temporary, preliminary and permanent injunction pursuant to §§ 11-51-602, C.R.S. (based on violations of § 11-51-301, C.R.S.) against the Defendants, their agents, servants, employees, successors and attorneys-in-fact, as may be; any person who directly or indirectly, through one or more intermediaries, controlled, or is controlled by or is under common control with the Defendants; and all those in active concert or participation with the Defendants.

## **SECOND CLAIM FOR RELIEF**

(Securities Fraud)

14. Paragraphs 1 through 13 are incorporated herein by reference.

15. The conduct described above in this Complaint constitutes violations of the Colorado Securities Act in that in connection with offer, sale, or purchase of securities in Colorado, the Defendants, directly or indirectly:

- a. employed a device, scheme, or artifice to defraud;
  - b. made written and oral untrue statements of material fact or omitted to state material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading; or
  - c. engaged in acts, practices or courses of business which operated and would operate as a fraud and deceit on investors,
- all in violation of § 11-51-501(1), C.R.S.

16. The Defendants offered or sold securities by means of untrue statements of material fact and omissions to state material facts necessary in order to make the statements, in light of the circumstances under which they were made, not misleading (the buyers not knowing of the untruths or omissions), and therefore the Defendants are liable to the Commissioner for damages under § 11-51-604(4), C.R.S., by operation of § 11-51-602(2), C.R.S. (based on violations of § 11-51-501(1)(b), C.R.S.).

17. The Commissioner is entitled to an award of damages, interest, costs, attorneys fees, restitution, disgorgement and other equitable relief on behalf of persons injured by the conduct of the Defendants pursuant to §§ 11-51-602(2) and 604(4), C.R.S. (based on violations of § 11-51-501, C.R.S.). The Commissioner is also entitled to a temporary, preliminary and permanent injunction pursuant to § 11-51-602, C.R.S. (based on violations of § 11-51-501, C.R.S.) against the Defendants, their agents, servants, employees, successors and attorneys-in-fact, as may be; any person who, directly or indirectly, through one or more intermediaries, controlled, or is controlled by or is under common control with the Defendants; and all those in active concert or participation with the Defendants.

WHEREFORE, Plaintiff prays for relief as follows:

1. For preliminary and permanent injunctive relief against all Defendants, and each of them, their officers, directors, agents, servants, employees, and successors; any person who directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with any of the Defendants, and all those in active concert of participation of Defendants, enjoining each of the Defendants' violations of the Colorado Securities Act, or successor statute.

2. For a judgment in an amount to be determined at trial against each Defendant, jointly and severally, for restitution, disgorgement, and other equitable relief pursuant to § 11-51-602(2), C.R.S., and for damages, rescission, interest, costs, reasonable attorney fees, and such other legal and equitable relief as the court deems appropriate, pursuant to §§ 11-51-602(2) and 604, C.R.S., all on behalf of persons injured by the acts and practices of all Defendants constituting violations of the Colorado Securities Act.

3. For an Order imposing a constructive trust on the fraudulently obtained funds held by each Defendant, or any entity controlled by them, and to order these Defendants to account for and disgorge all funds fraudulently obtained by them from the investors and transferred to them.

4. For such other and further relief as the court deems proper.

JOHN W. SUTHERS  
Attorney General

/s/Russell B. Klein

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